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**Remarks—General**

Applicant has rewritten all independent claims, while seeking to avoid raising any new issues. Both independent and some dependent claims have been narrowed, and the number of claims reduced, to define the invention more particularly and distinctly so as to overcome the technical rejections and define the invention patentably over the prior art. Applicant respectfully requests reconsideration of the last O.A.'s rejection of former claims 31 to 40 on Raichlen and Watson, now narrowed and rewritten as claims 46 to 55, for the following reasons:

- 1) There is no justification in the teachings of either, or in any other prior art separate from applicant's disclosures, suggesting that these references be combined, much less be combined in the manner proposed. On the contrary, both references teach against each other.
- 2) The proposed combination would require many awkward steps both to assemble physically and in its operation, and would fail to accomplish the purposes intended.
- 3) Even if Raichlen and Watson were to be combined in the manner proposed, their combination would not show all of the novel physical features of claim 46.
- 4) These novel physical features of claim 46 produce new and unexpected results and hence are unobvious and patentable over these references.

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Examining each of the above reasons we look first to the nature of each reference.

**Watson teaches away from Raichlen**, and also away from any possible suggestion of a shopping cart. In-and-out loading and unloading in transit, fundamental to shopping, is prohibited by Watson's containers. They are not only closed but their covers are locked while carried, preventing even a single coin being added or removed. His containers hold one of the highest-density products known: closely-packed coins. Yet he teaches that a pair of top hooks are sufficient support for his high weight-to-volume loads. No support is provided beneath any container. The operator is required not only to lift the entire weight but also to steeply tilt each box to release it from its hooks. Then he must continue to bear the entire weight while moving the box to its destination. Watson's structure allows only container transport, not accumulation of gradually increasing contents. Even substituting open-top containers, Watson's short, tight vertical rack packs containers too closely together to allow internal access.

**Raichlen teaches directly opposite to Watson**, requiring support beneath the container as well as atop it. Bottom support is a necessity, he teaches, not only to carry his single container but also to help load and unload it. Raichlen is so concerned with helping the user handle heavy loads that he provides a second man on occasion, to help place the container on the cart, and also to tilt the cart to balance on its wheels. He teaches that the essential structure is the hand truck toe plate. His toe plate uses are those

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known for centuries: parking the truck with its spine vertical, levering a burden aboard the cart at floor level, and then supporting the burden from underneath during transit. Nothing in Raichlen's teachings offers the slightest suggestion that an additional toe plate could be added to his cart to provide bottom support for a second container riding above the time-honored bottom position. Even if we insisted upon replicating Raichlen's setup two or three containers high on a tall cart, and switching from his closed packages to open-top containers, the assembly would be unusable for shopping. His big clamps would always interfere with merchandise movement in and out of containers. His long telescoping arm would split container access in half, making it awkward for every item going in and coming out, and impossible for large items to go into the container at all.

#### **Pioneering Toe Plates do two jobs at novel locations above floor level**

Neither Raichlen nor Watson nor both taken together in any configuration nor any other reference suggests applicant's new use for toe plates: we multiply their long-proven capacity to lever loads aboard, along with their capacity to hold those loads during transit. For the first time in the art, our toe plates deliver both functions at higher levels on the same cart. For example, one plate loads a container bottom aboard at adult knee level. Another carries a second container at tabletop level. Both levels appear in applicant's Fig. 1. The specification calls them ledges, but applicant now realizes that each of them is serving toe plate functions at elevated levels, just as surely as their centuries-old forebears have served them on the floor.

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A ledge's strength, anchored in the cart frame, supports one side of a grocery basket as it levers and locks into transport position.

**Shoppers load and unload with easy lifting for the first time**

To fully understand the novelty and importance of this invention's elevated toe plate actions, visualize them as they interact with basket transfers to and from store checkout counters, automobile trunks, home kitchen tables and counters. The consumer avoids lifting the full weight of a container by positioning the cart close to the transfer point. He or she then releases the container lock, and slides the container toward its destined surface. Throughout this transfer, part of the container weight is carried by the ledge, part by the new destination, such as the sill of the car trunk, part by shopper lifting in a bridging action. Shopper never lifts full weight of a loaded container; the weight is continuously levered.

**Unexpected benefits, hence unobvious advance, proved by working model: faster bar code scans, reduced labor**

Further evidence of unobviousness: two years of shopping with the inventor's preferred embodiment prototype often have led local checkout clerks into a new, surprising and entirely unexpected practice. They use their portable bar-code reader guns to shoot merchandise package codes while the merchandise remains in the baskets. This not only saves the shopper time and effort in unloading to checkout counters, but also saves the checkout clerk or assistant further time and effort in assisting the shopper with reloading baskets. Presenting the checkout clerk with two baskets

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rather than the usual one has proven to invite this unusual code reading, both because the merchandise is accessibly displayed over a wider area, and also because much of it presents at a higher level than usual.

**This invention advances two crowded arts: shopping carts and hand trucks**

Even a small step forward in a crowded art should be regarded as significant. Examiner has indicated uncertainty as to how this particular argument against obviousness might apply to claims as previously drafted. We submit that our newly restricted claims now deserve direct support from this principle among others. Striving for added clarity, however, we note that Examiner has reached beyond the art of our shopping cart claims, a field quite crowded in itself by accumulation over many decades. Examiner has drawn both references, Raichlen and Watson, from the related but distinct art of hand trucks not capable of use for shopping, an even more densely crowded and older art. Thus our invention's advances may fairly be presented as achieving a double-barreled advance against heavy odds in two fields of art.

**This contrarian invention pioneers by raising toe plates to knee and waist level**

This invention goes against the grain of teachings of both prior arts, which is another reason it should be considered unobvious. No reference shows a toe plate used above floor level on a cart to help load, unload, and support burdens. The entire long history of toe plates is that they are used at

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floor level, at the toe of the hand truck, hence their name. My invention elevates their structure and their most important functions to new heights. The history of the shopping cart arts teaches generally that there are only two kinds. One is the large-volume heavy basket found in stores usually riding on four wheels. The other is a flimsy, lightweight usually folding cart capable of carrying far less merchandise than store carts. Applicant's cart goes against both sets of teachings. It offers the light weight and compactness when folded that has been the exclusive domain of consumer-owned carts in the past. Yet the invention carries a large total volume and weight comparable to store-owned carts. No previous inventor has combined the two major classes in a single cart.

#### **Long-standing need now met by this invention**

Many inventors, including some of our references, have attempted to meet a shopper's need for reduced-labor handling of merchandise aggregations by collecting them in some sort of containers transferable to the shopper's car and later into the shopper's home. Paper and plastic bags have been the only popular answers to the need, but these are wasteful of materials and money, burdensome to our environment, and insufficient as labor-savers. The present invention at last squarely meets the need. If this invention were even a little bit obvious, it would long ago have been offered to shoppers to better meet the long-standing need among literally millions of shoppers.

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**Examiner's generous telephone discussions have enabled applicant to offer this request for entry of a final amendment**

Until applicant received the recent privilege of telephone give-and-take conversations with Examiner, applicant failed to realize the narrowed definitions necessary to show his true invention without reading upon prior art. This realization, while late in coming, is yet in time for this request for amendment to be respectfully submitted within Examiner's deadline.

**Applicant reports Compliance with Examiner's additional requirements**

Applicant filed an information disclosure statement with Amendment C on Oct. 31, 2005, but failed to accompany it with the statement specified in 37CFR 1.97(e), and now requests that said statement be accepted as follows:

I hereby certify that no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the best of my knowledge after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.



Examiner rejected claims 36-40, now rewritten as claim 51-55, as indefinite, specifically relating to definition of ledge size relative to burden. The rewritten claims proposed here are submitted to correct that failing, by

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stating that said means of partial support has substantially less width and length than that of the bottom of the burden supported.

Finally, applicant notes his agreement with Examiner's judgment that the use of lightweight metallic-tube cart frame construction is unsuitable to distinguish novelty. Applicant has expressed this agreement by subordinating this category to two dependent claims, together with alternative construction materials, which, taken as a whole, suggest a reasonable spectrum of construction materials which could be used for some embodiments in this application.

### **Conclusion**

For the above reasons, applicant submits that the specification and claims are now in proper form, and that the claims all define patentably over the prior art. Therefore applicant submits that this application is now in condition for allowance, which action he respectfully solicits.

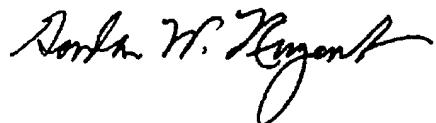
### **Conditional Request for Constructive Assistance**

Applicant has amended the specification and claims of this application so that they are proper, definite, and define novel structure which is also unobvious. If, for any reason, this application is not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P 706.03(d)

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and 707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,



**Certificate of Facsimile Transmission**

I certify that on the date below I will fax this paper to Box AF, Commissioner for Patents, U.S. Patent & Trademark Office, Alexandria, VA at 571-273-8300.

2006 March 23

